

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

BRETT T. CULVER

Plaintiff,

vs.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS;
Kevin Kane, Hearing Examiner,
Current Employee of the State
Correctional Institution Mahanoy,
Defendant.

COPY

1 : CV - 01 - 0904

FILED
SCRANTON

MAY 23 2001

PER ym
DEPUTY CLERK

APPLICATION FOR TEMPORARY RESTRAINING ORDER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Brett T. Culver, Plaintiff, and files for this Plaintiff's Application for Temporary Restraining Order complaining of Kevin Kane, Defendant, and for cause of action would respectfully show this Court as follows:

I. PARTIES

Plaintiff is Brett T. Culver, an individual who resides at the State Correctional Institution at Mahanoy, Schuylkill County, Pennsylvania. Defendant, Kevin Kane is an individual who is employed at the State Correctional Institution at Mahanoy in Schuylkill County, Pennsylvania, and may be served with Citation at the State Correctional Institution at Mahanoy address (SCI Mahanoy, 301 Morea Road., Frackville, PA. 17932).

II.

Defendant Kevin Kane, who is employed by the SCI at Mahanoy for the position and service as Hearing Examiner, has, since 12-20-99 to present, consistently utilized his position and power of authority to manipulate, obscure, deny, and disregard DOC Directives/Policy/Procedures and the duty and service thereof entrusted to his authority, to sanction, implicate, and propagate the unjust/untruthful/abusive actions against this Plaintiff in behalf of all offending staff within the SCI Mahanoy Administration.

III.

Plaintiff cannot approach or discuss these matters with Defendant Kevin Kane. Defendant, a counterpart of the corrupt Administrative offenders at SCI Mahanoy, refuses to cease and desist said behavior which is the subject of the cause of action in this suit.

IV.

Plaintiff has no adequate remedy at law or otherwise for the harm or damage done by Defendant herein because, the Administration personnel at SCI Mahanoy, to whom the Plaintiff is subjugated too, place themselves above any and all other authority, disregard DOC Directives/Policies/Procedures that would disrupt their agendas, including the evidenced disregard for Plaintiff's Constitutional/Amendment/Human rights.

V.

As a result of Defendant's continuing actions, Plaintiff will suffer irreparable damage, harm and injury unless the conduct of the Defendant is enjoined because Defendant Kevin Kane, has, in his capacity of duties and under guise thereof denied this Plaintiff any and all fair or impartial hearing or treatment. Defendant Kevin Kane has used his position as a Hearing Examiner and fact finder to disregard facts and evidence by deliberate action to deny fair impartial service of duties, so as to subject this Plaintiff to any and all fraudulent false claims, testimonies, and allegations made by SCI Mahanoy officials propagating abuses and retaliatory actions against this Plaintiff. Defendant has also used his position of authority to subject and accost this Plaintiff with sanctions/punishments above and beyond those given to other inmates for same said offences of allegations. Defendant's actions are intentional and deliberate to aggravate and increase punishments of unjust abuses against this Plaintiff, as evaluations of the documented record will evidence.

Extenuating pending Threat to the Plaintiff's safety involves "safe location placement" for the Plaintiff. Information made known to the Plaintiff is that, "should the Plaintiff submit for transfer to another Institution placement, the SCI Mahanoy Administrators (through Camp Hill Administrators) will ensure that the Plaintiff is transferred to the local SCI Frackville facility, where affiliates, friends, and associates of the SCI Mahanoy staff (offenders) will continue such retaliatory abuses and biased treatment against the Plaintiff at the local area transfer placement where the Plaintiff is received.

Due to the severity and reality of such threats and foreknowledge imminent danger probabilities, Plaintiff must petition this Court to mandate safe transfer placement (relocation) for this Plaintiff, to a location separate and distant from local facility influences/associations/affiliations/contacts between the employees/staff members throughout the local Eastern Pa. area SCI facilities. Plaintiff can only secure safe, fair, and impartial treatment by safe precautionary placement transfer to a Western Pa. Regional Facility location.

VI.

It is essential that Defendant be restrained from the aforementioned conduct immediately and without notice hereof or hearing hereon, because of the severity of the abuses suffered, the irreparable damages suffered and incurred, the Defendant's continued disregard for the duties/honesty/integrity demanded of his service. This includes the acts and conduct of corruption committed by the Defendant Kevin Kane under guise of the position and authority he intentionally and deliberately abuses in his capacity of duties.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays for the following:

- (1) That a Temporary Restraining Order be issued restraining Defendant from the aforementioned behavior;
- (2) That the Court mandate that the Department of Corrections relocate Plaintiff Brett T. Culver DD-3483, to a West Side of PA. Regional Facility location for safe protective placement (relocation) from further threat and danger thereof concerning retaliations/bias abuses by and through Eastern PA. SCI Administrative personnel/staff affiliations;
- (3) That Plaintiff recover all costs and expenses incurred herein;
- (4) That Plaintiff have such other and further relief to which he may be entitled, including court costs expended in his behalf.

Dated this 15 day of May, 2001.

Respectfully Submitted,

Brett Culver